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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/763,173

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Carmelo Giuffre

KARAGHIOSOFF

3489

7590

08/19/2003

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EXAMINER

MUSSER, BARBARA J

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 08/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/763,173	<b>Applicant(s)</b> GIUFFRE, CARMELO
	<b>Examiner</b> Barbara J. Musser	<b>Art Unit</b> 1733

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 11-29 and 32-40 is/are allowed.
- 6) ☒ Claim(s) 8-10, 30 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

## **DETAILED ACTION**

### ***Drawings***

1. The proposed drawing correction dated 4/4/03 will not be entered. First, it designates different parts 10 and 110 than shown in the original drawings. In the original drawings, 10 refers to the push bar located within the pipe, while in the proposed drawing, it refers to the pressure device also labeled 11'. These are not the same device. The device applying pressure to the exterior of the pipe is a presser means(11), not a push bar(10). While the proposed drawing shows numbers 210, and 310, the specification appears to indicate these numbers refer to portions of the push bar 10. Page 16 of the specification indicates 210 and 310 are parts of the push bar 10, which according to Figure 3 and the specification, is located inside the pipe. Device 11 is a different device entirely in that it applies external pressure against the pipe wall.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 9 and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not disclose how elastic dampers work in the context

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of the invention. While elastic dampers per se are known, the specification does not indicate where they are located, how they are used, or how they operate in relation to the specific parts of the invention.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 8-10, 30, and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 8, it is unclear what conditions and forces are similar and in what manner. It is unclear what range is encompassed by similar. As the extruding and reducing the pipe diameter occur before contact of the dripping elements with the pipe while the cooling and perforating occurs after, it is unclear what conditions are compared as the claim appears to indicate that extruding, reducing the diameter, cooling and perforating all occur both before and after the dripping elements contact the pipe. Examiner does not understand what is intended by the claim language. It is not clear where in the specification the claim terminology is defined. It is suggested this claim be canceled.

Regarding claims 9 and 31, it is unclear where the "elastic dampers" are located or how they act in the context of the invention. While the specification has support for elastic damping means, it is unclear how they act on the dripper units or what precisely they do. Claim 9 is confusing as it contains two different verbs for the same subject, takes place and is limited. It is suggested these claims be canceled.

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Regarding claim 10, it is unclear what is meant by the claim as the language applicant has pointed to does not explain the claim terminology. It is unclear what is meant by the dripper units being joined to the dragging means by the friction means as the dripper units are only joined to the wall of the extruded tube. Joining indicates attachment, and the dripper units are only attached to the extruded tube not the advancing means. The claim suggests friction means is a device but the specification indicates it is the friction between the dripper unit and the rollers which forms the "friction effect". The force between two items is not a means. It is unclear what is meant by force limitation. It is suggested this claim be canceled.

Regarding claim 30, it is unclear what is meant by "means for disengaging" and "when a predetermined pressure is attained" as the examiner cannot find an explanation of the claim language in the specification. These terms have not been defined by the specification. It appears that the means for disengaging simply mean that the pushing/dragging means ends at a given spot, and such is not a separate means for disengaging. Means language requires a physical device of some sort and not simply an action. It is suggested this claim be canceled.

Regarding claim 31, there is no antecedent basis for "the disengagement".

### ***Response to Arguments***

6. Applicant's arguments filed 7/31/03 have been fully considered but they are not persuasive.

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Regarding applicant's argument that pg 9, paragraph 3 of the specification indicates means for limiting the advancing force, it indicates the advancing force is limited, but it does not explain how this occurs. Applicant indicates elastic dampers reduce speed before contact but the claim indicates they reduce the speed after contact. The specification does not indicate that the force is limited by an extra device, but rather that it is limited by the device doing the advancing and is therefore not an additional means.

Regarding claim 10, applicant indicates the dripping elements are joined by a friction force. The claim indicates the dripping elements are joined by friction means, which indicates a device, not a force between two articles. Joining indicates attachment, but the dripping elements are not attached to the advancing means. The paragraph applicant points to says nothing about a friction process which joins the dripping elements or a frictional junction force which is not exceeded. On the contrary, it appears to indicate that the rollers on the roller way(103) have a specific amount of friction with regards to the dripping elements such that the velocity of the dripping elements is decreased by a specific amount due to the friction. This is not a means.

Regarding claim 30, a difference in speeds is not a device for disengaging. Means for language indicates a device is present which causes the action to occur.

Regarding claim 31, applicant indicates elastic means slow the speed before contact but the claim indicates the elastic means slow the dripping elements after contact. Applicant's argument appears to indicate that the definition of elastic means is different from that of those claimed. No description of elastic means has been found in

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the specification. Elastic means is a broad term no examples of which are shown in the specification. While applicant can insert the phrase "elastic means" into the specification, the specification has no indication of how these means work or where they are located.

***Allowable Subject Matter***

7. Claims 1-7, 11-29, and 32-40 are allowed.
8. Claims 8, 10, and 30 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
9. The following is a statement of reasons for the indication of allowable subject matter: upon reconsideration, the claims are considered to require that the dripper units move faster than the wall of the pipe and not merely that they are capable of moving faster than the wall of the pipe. As such, the prior art of record does not teach or fairly suggest feeding the dripper units such that they contact the wall of the drip irrigation hose at a faster speed than the wall of the hose.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cohen(U.S. Patent 6,461,468) is cited as a possible interference with applicant's claims, specifically see claim 2 of Cohen.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Barbara J. Musser** whose telephone number is (703)-305-1352. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



BJM  
August 18, 2003



Michael W. Ball  
Supervisory Patent Examiner  
Technology Center 1700